

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MANIE LEIGH FOSKEY, III,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-1566
)	Judge Conti
JEFFERY A. BEARD, et al.,)	Magistrate Judge Caiazza
)	
)	
Defendants.)	

MEMORANDUM ORDER

Manie Leigh Foskey's complaint pursuant to 42 U.S.C. §1983 was filed on November 14, 2005, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (the "Report"), filed on June 6, 2007, recommended that the Defendants' Motion for Summary Judgment be granted. The parties were allowed ten days from the date of service to file objections. Service was made on the Plaintiff by First Class United States Mail delivered to his place of incarceration, the State Correctional Institution at Fayette, located in Labelle, Pennsylvania. The Plaintiff filed Objections on June 14, 2007 (the "Objections") (Doc. 52) and a Supplement to those Objections on June 28, 2007 (the "Supplement") (Doc. 53). The court notes that the arguments raised in the Objections were already

addressed and appropriately rejected in the Magistrate Judge's Report. The Supplement, however, raised arguments under the Fifth and Fourteenth Amendments which were not directly addressed in the Report.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections and Supplement thereto, the following order is entered:

AND NOW, this 3rd day of July, 2007,

IT IS HEREBY ORDERED that this matter is **REMANDED** to the Magistrate Judge for a Report and Recommendation on the Plaintiff's arguments under the Fifth and Fourteenth Amendments. The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 51), dated June 6, 2007, is adopted as the opinion of the court with respect to all plaintiff's arguments except for the arguments under the Fifth and Fourteenth Amendments which are to be considered on remand.

s/Joy Flowers Conti
Joy Flowers Conti
U.S. District Court Judge

cc:
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